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OF THE

IDAHO LEGISLATURE

SECOND REGULAR SESSION
SIXTIETH LEGISLATURE

SIXTY-FOURTH LEGISLATIVE DAY
MONDAY, MARCH 15, 2010

Senate Chamber

President Little called the Senate to order at 10 a.m.

Roll call showed all members present except Senators Andreason, Darrington, Fulcher, Pearce, and Stegner, absent and excused.

Prayer was offered by Chaplain Montie Ralstin.

The Pledge of Allegiance was led by Katharine Hoehne, Page.

The Senate advanced to the Third Order of Business.

Reading and Correction of the Journal

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of March 12, 2010, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

Senators Andreason, Fulcher, and Darrington were recorded present at this order of business.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifth Order of Business.

Petitions, Resolutions, and Memorials

SP 103 was introduced, read at length, and referred to the Judiciary and Rules Committee for printing.

The Senate advanced to the Sixth Order of Business.

Reports of Standing Committees

Senator Pearce was recorded present at this order of business.

March 12, 2010

The JUDICIARY AND RULES Committee reports that S 1282, S 1283, S 1284, S 1285, S 1296, S 1316, S 1332, S 1338, and S 1388 have been correctly enrolled.

DARRINGTON, Chairman

The President signed Enrolled S 1282, S 1283, S 1284, S 1285, S 1296, S 1316, S 1332, S 1338, and S 1388 and ordered them transmitted to the House for the signature of the Speaker.

March 12, 2010

The STATE AFFAIRS Committee reports out S 1271 with the recommendation that it be referred to the Fourteenth Order of Business for amendment.

MCKENZIE, Chairman

There being no objection, S 1271 was referred to the Fourteenth Order of Business, General Calendar.

March 12, 2010

The FINANCE Committee reports out H 641 and H 642 with the recommendation that they do pass.

CAMERON, Chairman

H 641 and H 642 were filed for second reading.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Ninth Order of Business.

Messages from the House

March 12, 2010

Dear Mr. President:

I transmit herewith H 648, H 649, H 548, as amended, H 647, H 652, H 605, H 613, and H 636, which have passed the House.

ALEXANDER, Chief Clerk

H 648, H 649, H 548, as amended, H 647, H 652, H 605, H 613, and H 636 were filed for first reading.

March 12, 2010

Dear Mr. President:

I return herewith S 1392, S 1393, S 1394, S 1395, S 1396, S 1329, S 1252, as amended, S 1247, S 1299, S 1315, and S 1367, which have passed the House.

ALEXANDER, Chief Clerk

S 1392, S 1393, S 1394, S 1395, S 1396, S 1329, S 1252, as amended, S 1247, S 1299, S 1315, and S 1367 were referred to the Judiciary and Rules Committee for enrolling.

March 12, 2010

Dear Mr. President:

I transmit herewith Enrolled H 472, H 409, H 410, H 468, H 481, H 483, and H 514 for the signature of the President.

ALEXANDER, Chief Clerk

The President signed Enrolled H 472, H 409, H 410, H 468, H 481, H 483, and H 514 and ordered them returned to the House.

The Senate advanced to the Tenth Order of Business.

Motions and Resolutions

Senator Stegner was recorded present at this order of business.

The President announced that the State Affairs Committee report relative to the Gubernatorial appointment of Rayelle Anderson was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Jorgenson, seconded by Acting Senator Stennett, the Gubernatorial appointment of Rayelle Anderson as a member of the Bingo-Raffle Advisory Board was confirmed by voice vote.

The President declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The President announced that the Education Committee report relative to the Gubernatorial appointment of Emma Lou Atchley was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Schroeder, seconded by Senator Malepeai, the Gubernatorial appointment of Emma Lou Atchley as a member of the State Board of Education was confirmed by voice vote.

The President declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The Senate advanced to the Eleventh Order of Business.

**Introduction, First Reading, and Reference of Bills,
House Petitions, Resolutions, and Memorials**

S 1409

**BY FINANCE COMMITTEE
AN ACT**

REDUCING THE APPROPRIATION TO THE OFFICE OF THE STATE BOARD OF EDUCATION FOR FISCAL YEAR 2010; APPROPRIATING ADDITIONAL MONEYS TO THE OFFICE OF THE STATE BOARD OF EDUCATION FOR FISCAL YEAR 2010; APPROPRIATING MONEYS FOR THE OFFICE OF THE STATE BOARD OF EDUCATION FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; AND DECLARING AN EMERGENCY.

S 1410

**BY FINANCE COMMITTEE
AN ACT**

REDUCING THE APPROPRIATION TO THE DEPARTMENT OF CORRECTION FOR THE COMMISSION FOR PARDONS AND PAROLE FOR FISCAL YEAR 2010; APPROPRIATING MONEYS TO THE COMMISSION FOR PARDONS AND PAROLE FOR FISCAL YEAR 2011; LIMITING THE NUMBER OF FULL-TIME EQUIVALENT POSITIONS; EXEMPTING THE COMMISSION FROM CERTAIN APPROPRIATION TRANSFER LIMITATIONS FOR FISCAL YEAR 2010; EXEMPTING THE COMMISSION FROM CERTAIN APPROPRIATION TRANSFER LIMITATIONS FOR FISCAL YEAR 2011; AND DECLARING AN EMERGENCY.

S 1411

**BY STATE AFFAIRS COMMITTEE
AN ACT**

RELATING TO THE CONTROL AND SITING OF EXTRA LARGE POULTRY AND SWINE CONFINED ANIMAL FEEDING OPERATIONS; AMENDING TITLE 25, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 40, TITLE 25, IDAHO CODE, TO ESTABLISH THE POULTRY ENVIRONMENTAL CONTROL ACT, TO PROVIDE A SHORT TITLE, TO PROVIDE LEGISLATIVE FINDINGS AND PURPOSES, TO DEFINE TERMS, TO PROVIDE FOR PERMITS, TO PROVIDE FOR PERMIT APPLICATIONS, TO PROVIDE FOR APPLICATION FEES, TO PROVIDE

FOR EXISTING POULTRY OPERATIONS, TO PROVIDE FOR PERMIT CONDITIONS, TO PROVIDE SPECIFIC PERMIT CONDITIONS FOR EXTRA LARGE AND LARGE POULTRY OPERATIONS, TO PROVIDE FOR PERMIT AMENDMENTS, TO PROVIDE FOR THE TRANSFER OF PERMITS, TO PROVIDE FOR NUTRIENT MANAGEMENT RECORDKEEPING, TO PROVIDE FOR FEES TO BE COLLECTED FOR PERMITTED POULTRY OPERATIONS, TO PROVIDE FOR DESIGNATION, TO AUTHORIZE RULEMAKING, TO PROVIDE FOR VIOLATIONS, TO PROVIDE FOR REVOCATION OF PERMITS, TO PROVIDE FOR CIVIL PENALTIES, TO PROVIDE FOR FINANCIAL ASSURANCES FOR LARGE POULTRY OPERATIONS AND FOR EXTRA LARGE POULTRY OPERATIONS, TO PROVIDE FOR SITING REQUIREMENTS FOR EXTRA LARGE POULTRY OPERATIONS, TO PROVIDE THAT CERTAIN RECORDS SHALL BE SUBJECT TO PUBLIC DISCLOSURE, TO PROVIDE FOR SEVERABILITY AND TO PROVIDE FOR CONFLICTS; AMENDING TITLE 25, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 41, TITLE 25, IDAHO CODE, TO ESTABLISH THE SWINE ENVIRONMENTAL CONTROL ACT, TO PROVIDE A SHORT TITLE, TO PROVIDE LEGISLATIVE FINDINGS AND PURPOSES, TO DEFINE TERMS, TO PROVIDE FOR PERMITS, TO PROVIDE FOR PERMIT APPLICATIONS, TO PROVIDE FOR APPLICATION FEES, TO PROVIDE FOR EXISTING SWINE OPERATIONS, TO PROVIDE FOR PERMIT CONDITIONS, TO PROVIDE SPECIFIC PERMIT CONDITIONS FOR EXTRA LARGE AND LARGE SWINE OPERATIONS, TO PROVIDE FOR PERMIT AMENDMENTS, TO PROVIDE FOR THE TRANSFER OF PERMITS, TO PROVIDE FOR NUTRIENT MANAGEMENT RECORDKEEPING, TO PROVIDE FOR FEES TO BE COLLECTED FOR PERMITTED SWINE OPERATIONS, TO PROVIDE FOR DESIGNATION, TO AUTHORIZE RULEMAKING, TO PROVIDE FOR VIOLATIONS, TO PROVIDE FOR REVOCATION OF PERMITS, TO PROVIDE FOR CIVIL PENALTIES, TO PROVIDE FOR FINANCIAL ASSURANCES FOR LARGE SWINE OPERATIONS AND FOR EXTRA LARGE SWINE OPERATIONS, TO PROVIDE FOR SITING REQUIREMENTS FOR EXTRA LARGE SWINE OPERATIONS, TO PROVIDE THAT CERTAIN RECORDS SHALL BE SUBJECT TO PUBLIC DISCLOSURE, TO PROVIDE FOR SEVERABILITY AND TO PROVIDE FOR CONFLICTS; AMENDING TITLE 25, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 42, TITLE 25, IDAHO CODE, TO ESTABLISH THE LOCAL OPTION EXTRA LARGE SWINE OPERATIONS AND EXTRA LARGE POULTRY OPERATIONS SITING ACT, TO PROVIDE A SHORT TITLE, TO PROVIDE LEGISLATIVE FINDINGS AND PURPOSES, TO PROVIDE FOR THE APPLICABILITY OF SPECIFIED DEFINITIONS AND TO DEFINE TERMS, TO REQUIRE SITE APPROVAL BY CERTAIN OPERATIONS THAT ARE REGULATED BY SPECIFIED LAW, TO PROVIDE THAT SITE APPROVAL IS SUPPLEMENTAL TO OTHER REQUIREMENTS, TO PROVIDE THAT PARTICIPATION IS A LOCAL OPTION, TO PROVIDE THAT LOCAL ACTION IS REQUIRED FOR ACTION BY THE IDAHO STATE DEPARTMENT OF AGRICULTURE, TO PROVIDE FOR APPLICATIONS, TO PROVIDE THAT THE DIRECTOR MAY MAKE RULES AND CONTRACT WITH OTHER AGENCIES, TO PROVIDE LOCATION GUIDELINES, TO ESTABLISH SITE REVIEW PANELS, TO PROVIDE FOR SITING APPLICATIONS AND CONTENTS OF APPLICATIONS, TO PROVIDE DUTIES OF THE DIRECTOR RELATIVE TO APPLICATIONS, TO

REQUIRE FINANCIAL ASSURANCE FOR CLOSURE AND REMEDIATION, TO PROVIDE THAT THE DIRECTOR MAY REQUEST ADDITIONAL INFORMATION, TO PROVIDE FOR VIOLATIONS AND ENFORCEMENT, TO PROVIDE FOR CONFIDENTIALITY OF RECORDS, TO PROVIDE SEVERABILITY AND TO PROVIDE FOR CONFLICTS; REPEALING SECTION 39-104A, IDAHO CODE, RELATING TO RULEMAKING AUTHORITY REGARDING LARGE SWINE AND POULTRY FEEDING OPERATIONS AND REGARDING FINANCIAL ASSURANCES FOR SUCH OPERATIONS; AND REPEALING CHAPTER 79, TITLE 39, IDAHO CODE, RELATING TO THE LOCAL OPTION SWINE FACILITIES SITING ACT.

[S 1409](#), [S 1410](#), and [S 1411](#) were introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

[H 648](#) and [H 649](#), by Appropriations Committee, were introduced, read the first time at length, and referred to the Finance Committee.

[H 548](#), as amended, by Commerce and Human Resources Committee, was introduced, read the first time at length, and referred to the Commerce and Human Resources Committee.

[H 647](#), by Revenue and Taxation Committee, was introduced, read the first time at length, and referred to the Local Government and Taxation Committee.

[H 652](#), by State Affairs Committee, was introduced, read the first time at length, and referred to the State Affairs Committee.

[H 605](#), by State Affairs Committee, was introduced, read the first time at length, and referred to the Local Government and Taxation Committee.

[H 613](#), by State Affairs Committee, was introduced, read the first time at length, and referred to the Judiciary and Rules Committee.

[H 636](#), by Education Committee, was introduced, read the first time at length, and referred to the Education Committee.

The Senate advanced to the Twelfth Order of Business.

Second Reading of Bills

[S 1404](#), [S 1405](#), and [S 1406](#), by Finance Committee, were read the second time at length and filed for third reading.

[H 529](#), by Business Committee, was read the second time at length and filed for third reading.

[H 558](#), as amended, by Resources and Conservation Committee, was read the second time at length and filed for third reading.

[H 424](#) and [H 431](#), by Business Committee, were read the second time at length and filed for third reading, Consent Calendar.

[H 457](#), by Appropriations Committee, was read the second time at length and filed for third reading.

[H 486](#) and [H 540](#), by Transportation and Defense Committee, were read the second time at length and filed for third reading.

[H 564](#), by State Affairs Committee, was read the second time at length and filed for third reading.

[H 445](#), by Judiciary, Rules, and Administration Committee, was read the second time at length and filed for third reading, Consent Calendar.

[S 1382](#), as amended, and [S 1383](#), as amended, by Judiciary and Rules Committee, were read the second time at length and filed for third reading.

[S 1311](#), as amended, by Transportation Committee, was read the second time at length and filed for third reading.

The Senate advanced to the Thirteenth Order of Business.

Third Reading of Bills

[S 1337](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Corder arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Pursuant to Senate Rule 39(H), Senator Corder disclosed a possible conflict of interest under applicable law.

Roll call resulted as follows:

AYES—Andreason, Bilyeu, Bock, Brackett, Broadsword, Coiner, Corder, Davis, Goedde, Hammond, Heinrich, Hill, Kelly, Kerby (Keough), LeFavour, Lodge, Malepeai, McGee, McKenzie, Smyser, Stegner, Stennett (Stennett), Werk, Winder. Total - 24.

NAYS—Bair, Cameron, Darrington, Fulcher, Geddes, Jorgenson, McKague, Mortimer, Pearce, Schroeder, Siddoway. Total - 11.

Total - 35.

Whereupon the President declared [S 1337](#) passed, title was approved, and the bill ordered transmitted to the House.

[S 1345](#), as amended, was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Brackett arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Kerby (Keough), LeFavour, Lodge, Malepeai, McGee, McKague, McKenzie, Mortimer, Pearce, Schroeder, Siddoway, Smyser, Stegner, Stennett (Stennett), Werk, Winder. Total - 35.

Whereupon the President declared [S 1345](#), as amended, passed, title was approved, and the bill ordered transmitted to the House.

[S 1361](#), as amended, was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Winder arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Kerby (Keough), LeFavour, Lodge, Malepeai, McGee,

McKague, McKenzie, Mortimer, Pearce, Schroeder, Siddoway, Smyser, Stegner, Stennett (Stennett), Werk, Winder. Total - 35.

Whereupon the President declared [S 1361](#), as amended, passed, title was approved, and the bill ordered transmitted to the House.

[S 1375](#), as amended, was read the third time at length, section by section, and placed before the Senate for final consideration. Senator McGee arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Kerby (Keough), LeFavour, Lodge, Malepeai, McGee, McKague, McKenzie, Mortimer, Pearce, Schroeder, Siddoway, Smyser, Stegner, Stennett (Stennett), Werk, Winder. Total - 35.

Whereupon the President declared [S 1375](#), as amended, passed, title was approved, and the bill ordered transmitted to the House.

[S 1402](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Broadsword arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Kerby (Keough), LeFavour, Lodge, Malepeai, McGee, McKague, McKenzie, Mortimer, Pearce, Schroeder, Siddoway, Smyser, Stegner, Stennett (Stennett), Werk, Winder. Total - 35.

Whereupon the President declared [S 1402](#) passed, title was approved, and the bill ordered transmitted to the House.

[S 1385](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Hill arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Kerby (Keough), LeFavour, Lodge, Malepeai, McGee, McKague, McKenzie, Mortimer, Pearce, Schroeder, Siddoway, Smyser, Stegner, Stennett (Stennett), Werk, Winder. Total - 35.

Whereupon the President declared [S 1385](#) passed, title was approved, and the bill ordered transmitted to the House.

[S 1390](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Mortimer arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kerby (Keough), LeFavour, Lodge, Malepeai, McGee, McKague, McKenzie, Mortimer, Pearce, Schroeder, Siddoway, Smyser, Stegner, Stennett (Stennett), Winder. Total - 32.

NAYS—Bock, Kelly, Werk. Total - 3.

Total - 35.

Whereupon the President declared [S 1390](#) passed, title was approved, and the bill ordered transmitted to the House.

[S 1398](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Jorgenson arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kerby (Keough), Lodge, Malepeai, McGee, McKague, McKenzie, Mortimer, Pearce, Schroeder, Siddoway, Smyser, Stegner, Stennett (Stennett), Werk, Winder. Total - 32.

NAYS—Bock, Kelly, LeFavour. Total - 3.

Total - 35.

Whereupon the President declared [S 1398](#) passed, title was approved, and the bill ordered transmitted to the House.

[H 400](#), as amended in the Senate, was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Goedde arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Kerby (Keough), Lodge, McGee, McKague, McKenzie, Mortimer, Pearce, Siddoway, Smyser, Stegner, Winder. Total - 28.

NAYS—Bilyeu, Bock, LeFavour, Malepeai, Schroeder, Stennett (Stennett), Werk. Total - 7.

Total - 35.

Whereupon the President declared [H 400](#), as amended in the Senate, passed, title was approved, and the bill ordered returned to the House.

On request by Senator Davis, granted by unanimous consent, all bills on the Third Reading Calendar were reordered with [S 1382](#), as amended, [S 1383](#), as amended, and [S 1311](#), as amended, placed at the head of the Third Reading Calendar, followed by House Joint Resolutions, then Senate bills, then House bills amended in the Senate, followed by House bills.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

Miscellaneous Business

On motion by Senator Davis, seconded by Senator Kelly, by voice vote, the Senate adjourned at 12:07 p.m. until the hour of 10 a.m., Tuesday, March 16, 2010.

BRAD LITTLE, President

Attest: JEANNINE WOOD, Secretary